

## **REMARKS**

This is a full and timely response to the outstanding final Office Action mailed March 22, 2007. Through this response, claims 19 and 68 have been amended, claims 98-104 have been canceled without prejudice, waiver, or disclaimer, and claims 105-111 have been added. Reconsideration and allowance of the application and pending claims 1-16, 19-65, 68-97, and 105-111 are respectfully requested.

### **I. Claim Rejections - 35 U.S.C. § 103(a)**

#### **A. Rejection of Claims**

Claims 1-16, 19-65 and 68-104 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Maissel, et al.* ("*Maissel*", U.S. Patent Number 6,637,029 in view of *Conkwright, et al.* ("*Conkwright*", U.S. Patent Number 7,139,723. Applicants respectfully traverse these rejections.

#### **B. Discussion of the Rejection**

The U.S. Patent and Trademark Office ("USPTO") has the burden under section 103 to establish a *prima facie* case of obviousness according to the factual inquiries expressed in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The four factual inquiries, also expressed in MPEP 2100-116, are as follows:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

Applicants respectfully submit that a *prima facie* case of obviousness is not established using the art of record.

### Independent Claim 1

Claim 1 recites (with emphasis added):

1. A method for providing television functionality comprising:
  - tracking viewing parameters corresponding to services that are provided to a user;
  - determining a user preference for a viewing parameter;
    - tracking the user preference by assigning a score to the viewing parameter,***
    - determining the score for the viewing parameter based on a weighted linear combination of scores associated with the viewing parameter,***
  - receiving user input requesting television functionality; and
  - providing a user with a result that is responsive to the user input and to the user preference.

Applicants respectfully submit that *Maissel* in view of *Conkwright* fails to disclose, teach, or suggest at least the above-emphasized claim features. The Office Action admits (page 3) that *Maissel* “does not clearly disclose assigning a score (weighted) to the viewing parameter; determining the score for the viewing parameter based on a weighted linear combination of score associated with the viewing.” However, the Office Action alleges (on page 3) the following with regard to *Conkwright*:

Conkwright, in an analogous art, discloses disclose [sic] tracking the user preference by assigning a score (weight) to the viewing parameter (Col. 8, lines 48-67+; Col. 3, lines 58-Col. 4, lines 13) determining the score for the viewing parameter based on weighted linear combination of score associated with the viewing (Col. 8, lines 30-35; Col. 9, lines 40-60; Col. 22, lines 1-40; Fig. 12 and 13 and Col. 25, lines 1-53).

Applicants respectfully disagree. Even assuming *arguendo* *Conkwright* discloses linear weightings, such weightings are not used for ***determining the score for a viewing parameter.*** Further, even assuming *arguendo* *Conkwright* discloses linear weightings, it is unreasonable to combine any weighting technology applied on a mass scale (e.g., regions) to user-specific applications such as those involved in *Maissel*, and to do so is

more likely the result of improper hindsight reasoning. Accordingly, Applicants respectfully request that the rejection to claim 1 be withdrawn.

Because independent claim 1 is allowable over *Maissel* in view of *Conkwright*, dependent claims 2-16 and 19-48 are allowable as a matter of law for at least the reason that the dependent claims 2-16 and 19-48 contain all elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

#### **Independent Claim 49**

Claim 49 recites (with emphasis added):

49. A system for providing television functionality comprising:  
logic for tracking viewing parameters corresponding to services  
that are provided to a user;  
logic for determining a user preference for a viewing parameter;  
**logic for tracking the user preference by assigning a score to  
the viewing parameter;**  
**logic for determining the score for the viewing parameter  
based on a weighted linear combination of scores associated with  
the viewing parameter;** and  
logic for providing a user with a result that is responsive to the  
user input and to the user preference.

For similar reasons presented above in association with claim 1, Applicants respectfully submit that *Maissel* in view of *Conkwright* fails to disclose, teach, or suggest at least the above-emphasized claim features. Accordingly, Applicants respectfully request that the rejection to claim 49 be withdrawn.

Because independent claim 49 is allowable over *Maissel* in view of *Conkwright*, dependent claims 50-65 and 68-97 are allowable as a matter of law.

## **II. Canceled Claims**

As identified above, claims 98-104 have been canceled from the application through this Response without prejudice, waiver, or disclaimer. Applicants reserve the right

to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

### **III. New Claims**

As identified above, claims 105-111 have been added into the application through this Response. Applicants respectfully submit that these new claims describe various embodiments that are novel and unobvious in view of the art of record. For instance, Applicants respectfully submit that the art of record fails to disclose, teach, or suggest at least “determining a user preference for the viewing parameter based on a time of day, a day of a week, and a month of a year” or “recording the user preference in multiple data structures corresponding respectively to the viewing parameter for the time of the day, the day of the week, and the month of the year “ or “recording the user preference in a data structure comprising separate entries for the time of the day, the day of the week, and the month of the year” as recited in independent claims 105 and 110 (and incorporated into the respective base claims). Therefore, Applicants respectfully request that claims 105-111 be held to be allowable.

**CONCLUSION**

Applicants respectfully submit that Applicants' pending claims are in condition for allowance. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

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